

**IN THE UNITED STATES BANKRUPTCY COURT
FOR THE WESTERN DISTRICT OF PENNSYLVANIA**

IN RE:

Amanda Jean Thomas,

Debtor.

Amanda Jean Thomas,

Movant

V.

Midland Funding, LLC,
Respondent.

BANKRUPTCY NO: 18-21424-GLT

CHAPTER 7

DOCKET NO. _____

RELATED DOCKET NO. _____

HEARING DATE:

September 20, 2018 at 1:30 P.M.

**MOTION TO AVOID JUDICIAL LIEN
OF MIDLAND FUNDING, LLC
PURSUANT TO 11 U.S.C. §522(f)(1)(A)**

Filed on behalf of:

Amanda Jean Thomas,
Debtor.

Counsel of Record: *Pro Se*

Address for Service:

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P.O. Box 157
Perryopolis, PA 15473
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U.S. BANKRUPTCY COURT
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PITTSBURGH

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PURSUANT TO 11 U.S.C. §522(f)(1)(A)

AND NOW comes the Debtor, Amanda Jean Thomas, *pro se*, and respectfully moves this Honorable Court to avoid the judicial lien of Midland Funding, LLC, Respondent, upon the interest of Debtor in the real property located at 303 Lake Front Road, Perryopolis, PA 15473 and being more fully described below, for reason that said judgment lien impairs Debtor's exemptions in the property, and in support thereof Debtor avers as follows:

1. Debtor, Amanda Jean Thomas, filed this Voluntary Chapter 7 bankruptcy case *pro se* on April 12, 2018 in order to discharge an insurmountable and growing amount of unsecured debt, fees, and judgments.

- 2. The Pennsylvania Judicial Code at 42 §4303 provides that:**

(a) Real property.--**Any judgment** or other order of a court of common pleas for the payment of money **shall be a lien upon real property** on the conditions, to the extent and with the priority provided by statute or prescribed by general rule adopted pursuant to

section 1722(b) (relating to enforcement and effect of orders and process) **when it is entered of record in the office of the clerk of the court of common pleas of the county where the real property is situated**, or in the office of the clerk of the branch of the court of common pleas embracing such county.

3. Respondent, Midland Funding, LLC, holds a judgment lien within the meaning of 11 U.S.C. §101(36), as said lien was obtained by virtue of the judgment docketed at case number 651 of 2018 DSB, in the Court of Common Pleas of Fayette County, Pennsylvania, by default. Debtor has attached the documentation for said judgment as Exhibit “D” hereto. The Respondent’s lien is in the amount of \$2,442.28. The judgment’s basis is unpaid consumer credit card debt.

4. Debtor, Amanda Jean Thomas, is the sole owner of the real property located at 303 Lake Front Road, in the City of Perryopolis, Fayette County, Pennsylvania, being parcel number 13-04-0032, and being more fully described in Exhibit “F” attached hereto and made a part hereof (hereinafter the “Real Property”). The Real Property is Debtor’s homestead.

5. Debtor is entitled to, and has, claimed an exemption in the Real Property in the total amount of \$20,775.00, pursuant to 11 U.S.C. §522(d)(1).

6. Debtor’s interest in the Real Property is, at the time of the filing of the bankruptcy petition, encumbered by the following liens:

Lien Type	Lien Date	Creditor	Amount
Mortgage See Exhibit “A”	October 7, 2004	RC1 Master Participation Trust	Orig: \$71,400.00 Now: \$55,538.04
Judgment See Exhibit “B”	June 20, 2017	Discover Bank	\$9,357.87
Judgment See Exhibit “C”	February 21, 2018	Barclays Bank Delaware	\$4,277.99
Judgment See Exhibit “D”	March 14, 2018	Midland Funding, LLC	\$2,442.28
Judgment See Exhibit “E”	April 2, 2018	Cavalry SPV I, LLC, as Assignee of Citibank, N.A.	\$6,809.33

7. Debtor states that she intends to avoid all judicial liens currently on her property, and

thus excludes their contribution in the following calculation pursuant to 11 U.S.C. §522(f)(2)(B).

8. Midland Funding, LLC's lien impairs Debtor's exemption as follows:

- a. Midland Funding, LLC's lien is in the amount of \$2,442.28;
- b. Debtor's mortgage lien is in the amount of \$55,538.04;
- c. The amount of the exemption that debtor could claim if there were no liens on the property is \$20,775.00;
- d. The sum of the foregoing is \$78,755.32;
- e. The value that Debtor's interest would have in the absence of any liens is the undisputed fair market value of the property, \$70,000.00 as determined by Debtor's research of comparable properties of similar stature; and
- f. The sum given in (d) exceeds the value of (e) by an amount greater than the value of Midland Funding, LLC's lien.

9. Under the required analysis of 11 U.S.C. §522(f)(2)(A), since Debtor has no equity in the property above her exemption, as shown from the above calculation, the judicial lien of Midland Funding, LLC entirely impairs her exemption and is subject to full avoidance.

10. Debtor properly scheduled Midland Funding, LLC as a secured creditor in the within case and scheduled her homestead and exemptions.

11. The judicial lien referred to herein does not secure a debt owed to a spouse, former spouse, or child of the Debtor, Amanda Jean Thomas, for alimony to, maintenance for, or support of such spouse or child, in connection with a separation agreement, divorce decree or other order of a court of record, determination made in accordance with State or territorial law by a governmental unit, or property settlement agreement.


12. Pursuant to 11 U.S.C. §522(f)(1)(A) and (2)(A), Debtor may avoid the fixing of said

judicial lien of Midland Funding, LLC on the Debtor's real property.

WHEREFORE, Debtor, Amanda Jean Thomas, hereby requests that this Honorable Court enter the attached Order avoiding the fixing of the judicial lien of said Respondent, Midland Funding, LLC, at docket number 651 of 2018 DSB, in the Court of Common Pleas of Fayette County, Pennsylvania.

Respectfully submitted by,

Dated: 7/23/18


Amanda Jean Thomas, Debtor
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